

**REMARKS**

Claims 2-17 are pending in the present application. Claim 1 has been cancelled. Claims 2, 4, 6, 7, 10, 12-14 have been amended. Each of claims 2, 4, 6, 7 and 10 has been amended to be in independent form. Additionally, each instance of the term “pentamethylene” has been amended to recite “polymethylene” in order to correct a typographical error. In paragraph [0036] of the US publication, cyclopropylidene, cyclobutylidene, cyclopentylidene, cyclohexylidene, cycloheptylidene and the like are exemplified as polymethylene groups. Claims 12-14 have been amended to correct the dependency. No new matter has been added by way of the above amendments.

***Claim Rejection under 35 U.S.C. § 112***

The Examiner rejected claim 6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention.

In view of Applicants’ correction of the typographical error discussed above, the outstanding rejection is rendered moot. Withdrawal of the rejection is respectfully requested.

***Claim Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103***

Claims 1, 4, 13 and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by JP 05-059077 (hereinafter “JP ‘077”). Applicants respectfully traverse.

JP '077 discloses the compound dimethylsilylene(tetramethylcyclopentadienyl)(9-fluorenyl)zirconium dichloride. However, this compound does not fulfill the requirement "when  $R^5$  to  $R^{12}$  are all hydrogen or when  $R^6$  and  $R^{11}$  are both hydrocarbon groups,  $R^{13}$  are hydrocarbon groups other than phenyl, methyl and petamethylene groups" as in present claim 4. Therefore, the compound of JP '077 is outside the scope of the claimed invention. Reconsideration and withdrawal of the outstanding rejection is respectfully requested.

Claims 1, 4, 7-9 and 12-17 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 6,469,188 B1 (hereinafter "US '088"). Applicants respectfully traverse.

US '088 discloses many metallocene compounds in Examples 1-12, 52 and 54. However, these compounds are outside the scope of the claimed invention. US '088 does not teach a metallocene compound "wherein  $R^5$  to  $R^{12}$  are all hydrogen or when  $R^6$  and  $R^{11}$  are both hydrocarbon groups,  $R^{13}$  and  $R^{14}$  are hydrocarbon groups other than phenyl, methyl and polymethylene groups, and when  $R^7$  and  $R^{10}$  are both hydrocarbon groups,  $R^{13}$  and  $R^{14}$  are hydrocarbon groups other than phenyl and methyl groups" as defined in the present claims 4 and 7.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the claims.

***Obviousness-Type Double Patenting***

Claims 15-17 stand provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 3 and 4 of co-pending application 10/550,021. Applicants respectfully traverse.

The present application is the earlier-filed of the co-pending applications. In accordance with MPEP 804, if a “provisional” non-statutory obviousness-type double patenting rejection is the only rejection remaining in the earlier-filed of the two pending applications, while the later-filed application is rejectable on other grounds, the Examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a Terminal Disclaimer. Therefore, Applicants respectfully request withdrawal of the outstanding rejection.

In view of the foregoing, Applicants believe the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.


**Conclusion**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: December 4, 2007

Respectfully submitted,

By 

Marc S. Weiner

Registration No.: 32,181

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant